



[Billing Code: 6750-01-S]
FEDERAL TRADE COMMISSION
Agency Information Collection Activities;
Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (“Commission” or “FTC”).

ACTION: Notice.

SUMMARY: The FTC is seeking public comments on its proposal to extend for three years, its current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in the Fuel Rating Rule (“Rule”), which will expire on July 31, 2017.

DATES: Comments must be filed by [INSERT DATE 60 DAYS FROM FEDERAL REGISTER DATE OF PUBLICATION].

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. Write “Fuel Rating Rule PRA Comment, FTC File No. P144200” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/fuelratingpra>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Hampton Newsome,

Attorney, Division of Enforcement, Federal Trade Commission, Room CC-9528, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2889.

SUPPLEMENTARY INFORMATION: The Fuel Rating Rule, 16 CFR Part 306 (OMB Control Number: 3084-0068), establishes standard procedures for determining, certifying, and disclosing the octane rating of automotive gasoline and the automotive fuel rating of alternative liquid automotive fuels, as required by the Petroleum Marketing Practices Act. 15 U.S.C. 2822(a)-(c). The Rule also requires refiners, producers, importers, distributors, and retailers to retain records showing how the ratings were determined, including delivery tickets or letters of certification.

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information. All comments should be filed as prescribed in the **ADDRESSES** section above,

and must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

Estimated annual hours burden: 33,052 total burden hours (13,500 recordkeeping hours + 19,552 disclosure hours)

Recordkeeping: Based on industry sources, staff estimates that approximately 162,000 fuel industry members¹ each incur an average annual burden of approximately five minutes to ensure retention of relevant business records² for the period required by the Rule, resulting in a total of 13,500 hours.

Disclosure: Staff estimates that affected industry members incur an average burden of approximately one hour to produce, distribute, and post octane rating labels. Because the labels are durable, only about one of every eight industry member retailers (19,552 of 156,418 industry member retailers) incur this burden each year, resulting in a total annual burden of 19,552 hours.

Estimated annual labor costs: \$390,430

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Here, the average hourly wages of refiners, producers, distributors, and

¹ Staff derived the number of fuel industry members by adding the number of refiners, producers, importers, distributors, and retailers of these types of fuel. Staff consulted government agencies and industry sources in estimating a population of approximately 162,000 fuel industry members, including 156,418 retailers of automotive fuel. Some of the government websites reviewed to update these numbers include: http://www.eia.gov/dnav/pet/pet_pnp_cap1_dcu_nus_a.htm (Gasoline Producers); <http://www.eia.gov/biofuels/biodiesel/production/> (Biodiesel Producers); <http://www.afdc.energy.gov/fuels/> (Alternative Fuel Stations); http://www.nacsonline.com/YourBusiness/FuelsReports/2015/Documents/2015-NACS-Fuels-Report_full.pdf (Petroleum Stations).

² Under the Fuel Rating Rule, refiners, producers, importers, distributors, and retailers of automotive fuel must retain, for one year, records of any delivery tickets, letters of certification, or tests upon which they based the automotive fuel ratings that they certify or post. See the Fuel Rating Rule's recordkeeping requirements, 16 CFR 306.7; 306.9; and 306.11.

importers is \$35.12.³ The average hourly wages of retailers is \$11.48.⁴ The recordkeeping component, 13,500 hours, consists of approximately 465 hours for producers, distributors, and importers; 13,035 hours for retailers. Thus, the total annual labor cost for recordkeeping is \$165,973 ((465 hours x \$35.12) + (13,035 hours x \$11.48/hour)). The disclosure component, which concerns retailers, is approximately 19,552 hours. Thus, total annual labor cost for disclosure is \$224,457 (19,552 hours x \$11.48/hour).

Estimated annual non-labor costs: \$78,209

Staff believes that the Rule does not impose any capital costs for producers, importers, or distributors of fuels. Retailers, however, incur the cost of procuring and replacing fuel dispenser labels to comply with the Rule. Staff conservatively estimates that the price per automotive fuel label is two dollars and that the average automotive fuel retailer has six dispensers; thus, \$12 labeling cost at inception per retailer.⁵ Staff has previously estimated a dispenser useful life range of 6 to 10 years and, based on that, assumed a useful life of 8 years for labels, the mean of that range. Given that, replacement labeling will not be necessary for well beyond the relevant period at issue, *i.e.*, the immediate 3-year PRA clearance sought. However, conservatively annualizing the \$12 labeling cost at inception per retailer over that shorter period rather than average useful life, annualized labeling cost per retailer will be \$4. Cumulative labeling cost would thus be \$78,209 (156,418 retailers \times 1/8 \times \$4 each, annualized).

³ See <http://www.bls.gov/iag/tgs/iag211.htm#earnings> (Bureau of Labor Statistics, December 2016 Current Employment Statistics, Average Hourly Earnings for Oil and Gas Extraction Production and Nonsupervisory Employees).

⁴ See <http://www.bls.gov/iag/tgs/iag447.htm> (Bureau of Labor Statistics, December 2016 Current Employment Statistics, Average Hourly Earnings for Gasoline Station Production and Nonsupervisory Employees).

⁵ See 75 FR 12,470, 12,477 (Mar. 16, 2010) (proposed rulemaking) (estimating the price range per pump to be one to two dollars).

Request for Comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 60 days from FEDERAL REGISTER date of publication]. Write “Fuel Rating Rule PRA Comment, FTC File No. P144200” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure

explained in FTC Rule 4.9(c), 16 CFR 4.9(c).⁶ Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest. Once your comment is posted, as legally required by FTC Rule 4.9(b), we cannot redact or remove your comment from the FTC's public record, including the FTC's Web site, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request in accordance with the law and the public interest, as explained above.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/fuelratingpra>, by following the instructions on the web-based form. When this Notice appears at <http://www.regulations.gov/#!/home>, you also may file a comment through that website.

If you file your comment on paper, write "Fuel Rating Rule PRA Comment, FTC File No. P144200" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

⁶ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <http://www.ftc.gov/ftc/privacy.htm>.

David C. Shonka
Acting General Counsel.
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